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June 19, 2001

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas
Secretary, Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

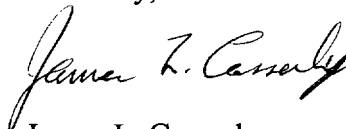
**Re: Ex Parte Presentation; Nondiscrimination in the Distribution of Interactive
Television Services Ovr Cable, CS Docket No. 01-7**

Dear Ms. Salas:

On June 18, 2001, James R. Coltharp of Comcast Corporation, David Rudd, and I met with Commissioner Copps and his Legal Advisor, Susanna Zwerling. In the course of a general introduction of Comcast Corporation and its interests in pending Commission proceedings, we briefly touched on the above-captioned docket and provided the attached summary of Comcast's position (as previously articulated at greater length in comments and reply comments).

Pursuant to section 1.1206(b)(2) of the Commission's rules, an original and one copy of this letter are being filed with the Office of the Secretary. Copies of the letter are also being served on the Commission personnel involved.

Sincerely,


James L. Casserly

Enclosure

cc: Honorable Michael J. Copps
Susanna Zwerling

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INTERACTIVE TELEVISION

REGULATION OF INTERACTIVE TELEVISION SERVICES IS UNNECESSARY, UNLAWFUL, AND HARMFUL TO INVESTMENT AND INNOVATION

Potential “interactive television” (“ITV”) services -- delivered by cable, direct broadcast satellite, broadcast and other means -- are exciting but so far largely untested. Nevertheless, the Federal Communications Commission (“FCC”) has issued a Notice of Inquiry (“Notice”) to explore the possibility of regulating ITV services when they are provided by cable companies. The evidence presented by owners and developers of content, developers of ITV technology, equipment manufacturers, cable companies, and others argues strongly against regulation of this nascent industry.

Nonetheless, a handful of entrenched, vertically integrated programming interests continue to press for the government to step in. *If the FCC or Congress were persuaded to regulate these nascent ITV services, cable operators, satellite companies, programmers, and suppliers will be less likely to invest in ITV, and the U.S. may fall behind other countries in deployment.*

I. ITV SERVICES ARE IN THEIR INFANCY.

While no one knows precisely which ITV services will develop, potential services include: digital storage and retrieval, with easy recording of favorite shows regardless of time or channel; video-on-demand, with VCR functionalities; access to storehouses of information about actors, directors, and story lines; new forms of home shopping; messaging; and games.

- The development of ITV services is fraught with uncertainty and risk. No one knows whether these services will create a return on investment. No one knows whether consumers will accept these services.
- Most of these services have not even been deployed on a commercial scale.
- Efforts to regulate such emerging services will inevitably deter investment and curtail innovation.

II. NEITHER CABLE, NOR SATELLITE, NOR OTHER COMPETITORS ARE A “BOTTLENECK.” THERE ARE MANY WAYS TO DELIVER ITV.

- There is no reason to believe that cable will be the sole, or even the dominant, means of delivering ITV services. Satellite is competing effectively against cable for traditional video services and is offering ITV services nationally, ahead of cable. Telephone, fixed wireless, and other technologies may also provide alternative distribution platforms.
- Cable companies are entering business arrangements with many ITV service providers – including independent providers as well as providers in which cable companies are investing.
- Cable companies, like satellite companies and other providers, have every incentive to provide the ITV services that customers want, or they risk losing those customers. In a competitive marketplace, the terms and conditions of business relationships should be established based on the mutual needs of the parties, not by government.

III. THOSE SEEKING REGULATION OF ITV HAVE FAILED TO JUSTIFY GOVERNMENT INTERVENTION.

The FCC's Notice identified no credible basis for ITV regulation. Neither the law nor the facts justify government control of ITV services.

- The best argument against government regulation of ITV is the lack of any need, and the certainty of harm. There is no documented "problem" to which government regulation is the answer. Nor is there a statutory basis for ITV regulation.
- The interests seeking regulation have presented extraordinary "wish lists" of those interests seeking regulation. While they purport to favor "simple" rules that merely prevent cable operators from "discriminating" among ITV players, a closer examination reveals that their proposals would mire the government in micro-management of an exceedingly complex business.
- The proponents of regulation of ITV also ignore important First Amendment rulings that have invalidated regulations that relied on "speculative" and "conjectural" concerns as a basis for constraining cable operators' First Amendment rights. Because there is no evidence of any actual ITV problems, everything the proponents have asked the FCC to do is based on "speculative" and "conjectural" harm.

IV. THE INTERESTS THAT ARE PUSHING HARDEST FOR REGULATION OF ITV ARE THOSE WHO ARE ALREADY FAVORED WITH SPECIAL ADVANTAGES BY THE GOVERNMENT – AND NOW THEY WANT MORE.

The special interests most vigorously advocating FCC regulation of ITV services delivered via cable are some of the biggest players in the broadcasting industry. Their common attribute (besides their desire to impose new burdens on cable companies) is that they derive substantial profits from their use of the public's airwaves, without charge. Cable operators, by contrast, receive no government handouts, and instead pay for the privilege of serving each community.

The broadcasters have the capital, know-how, and opportunity to invest in delivering ITV services. And they have ample leverage to negotiate for these results. They are able to withhold broadcast signals from cable operators (exploiting retransmission consent privileges) and tie other video programming to exploit their vertical and horizontal integration. In a competitive market, there is simply no excuse for them to use Commission processes to seek leverage in ordinary commercial negotiations for ITV services.

The cable business is competitive, capital-intensive, and risky. Comcast builds and upgrades its facilities using privately raised capital. It competes intensely with DBS (as well as wireline competitors) for multi-channel video subscribers and with telephone companies for high-speed Internet services. Comcast is committing capital to developing and deploying new services. These services must provide consumers an experience for which Comcast is prepared to be accountable in the marketplace.

ITV services are just beginning to develop, in an environment of uncertainty, competition, and risk. The best thing government can do to promote ITV is to refrain from regulatory action.